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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,332	01/20/2004	Peter A. Goode	68.0363	9789

7590 09/16/2005

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EXAMINER

NEUDER, WILLIAM P

ART UNIT

PAPER NUMBER

3672

DATE MAILED: 09/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/760,332		GOODE ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	William P. Neuder		3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,3-5,7,9-13,16-19,23,25 and 26 is/are rejected.
- 7) ☒ Claim(s) 2,6,8,14,15,20-22 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/20/04, 12/6/04</u>  | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Claim Objections*

Claim 14 is objected to because of the following informalities: In line 1, "coupling and electric" should be --coupling an electric--. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5,7,9-13,16-19,23,25 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Snider 5,000,264.

Snider discloses a well system and method of producing well fluids. A completion (figure 3) is positioned in a wellbore to pump a production fluid (figure 1 shows producing and figure 2 shows treatment). Tubing 18 is coupled to the completion. A bypass is located below diverter valve 29 for carrying the well treatment fluid past the completion. The diverter valve 29 and ports 86,94 are disposed in cooperation with the tubing to selectively direct flow of the well treatment fluid through the tubing or flow of production fluid from the completion through the tubing. As to claim 3, tubing 18 is production tubing. As to claim 4, the bypass is formed by part of the tubing that directs fluid past the completion. As to claim 5, the conduit is part of the tubing. As to claim 7, diverter valve 29,86,94 is moveable between positions blocking flow through the tubing and a second position blocking flow through the bypass. As to

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claim 9, the diverter valve is located within the well and is utilized to obstruct flow in the tubing while allowing flow along the treatment flow path. As to claim 10, the treatment fluid is pumped downhole. As to claim 11, the completion is coupled to the tubing. As to claims 12 and 13, figure 1 shows the diverter in the position blocking flow along the well treatment flow path and producing the production fluid upwardly. As to claim 16, the bypass is located below member 29. As to claim 17, figures 1 and 2 show the two positions of the diverter assembly allowing treatment and production. As to claim 18, the diverter is mounted to the tubing. As to claim 19, a packer 22 is provided. As to claims 23,25 and 26, figures 1 and 2 show the two positions for production and treatment utilizing the diverter assembly.

***Allowable Subject Matter***


Claims 2,6,8,14,15,20-22 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Neuder whose telephone number is 571-272-7032. The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J. Bagnell can be reached on 571-272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William P Neuder  
Primary Examiner  
Art Unit 3672

W.P.N.